

COPY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GMA ACCESSORIES, INC.,

PLAINTIFF,

-against-

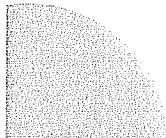
EMINENT, INC., SAKS FIFTH AVENUE, INC.,
INTERMIX, INC., WINK NYC, INC., LISA KLINE,
INC., GIRLSHOP, INC., SHOWROOM SEVEN STUDIOS,
INC., JONATHAN SINGER, LEWIS TIERNEY and
JONATHAN SOLNICKI,

DEFENDANTS,
-----X

DATE: March 7, 2008

TIME: 10:31 a.m.

EXAMINATION BEFORE TRIAL of a
non-party witness, CHARLOTTE B, by a witness,
MELINA SOLNICKI, taken by the Plaintiff, GMA
ACCESSORIES, INC., pursuant to a Subpoena,
held at the offices of THE BOSTANY LAW FIRM, 40
Wall Street, New York, New York, before a
Registered Professional Reporter and Notary
Public of the State of New York.



David Feldman
Worldwide

From File to Trial™

appearance page- solnicki

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2 A P P E A R A N C E S:

3

4 THE BOSTANY LAW FIRM
5 Attorneys for the Plaintiff
6 40 Wall Street, 61st floor
7 New York, New York 10022
8 BY: JOHN P. BOSTANY, ESQ.
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9

10 DREIER, LLP
11 Attorneys for the Defendants Saks
12 Fifth Avenue, Inc., Intermix, Inc.,
13 Wink NYC, Inc., Lisa Kline, Inc.,
14 Jonathan Singer, Lewis Tierney,
15 Jonathan Solnicki, and Charlotte B
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15

16

17 GARVEY SCHUBERT BARER
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22 BY: (NO APPEARANCE)

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FEDERAL STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties herein, that filing and
sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form of
the question, shall be reserved to the time
of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be sworn to
and signed before any officer authorized to
administer an oath, with the same force and
effect as if signed and sworn to before the
Court.

1
2 M E L I N A S O L N I C K I, called as a
3 witness, having been first duly sworn by a
4 Notary Public of the State of New York, was
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. BOSTANY:

8 Q. Please state your name for the
9 record.

10 A. Melina Solnicki.

11 Q. Where do you reside?

12 A. 1789 Jose Hernandez, Buenos
13 Aires, Argentina.

14 Q. We are here pursuant to order of
15 Judge Freeman enforcing a December 13, 2007
16 subpoena of Charlotte B, LLC. Are you a
17 representative of Charlotte B, LLC?

18 A. I am one of their main members,
19 yes.

20 Q. Who are the other members?

21 A. Jessica Solnicki and Jonathan
22 Solnicki.

23 Q. Do any of you have titles?

24 A. The three of us are the owners.
25 I don't recall each title.

1 SOLNICKI

2 Q. Is there an agreement that sets
3 forth your titles? Is there any type of
4 written document that sets forth your
5 titles?

6 A. Not that I know of.

7 Q. I have here a bunch of documents
8 that I just saw yesterday when I got back
9 from court, although they came in late the
10 night before. So because they were ordered
11 to be produced a week before the deposition
12 during a February 7th conference call with
13 the judge and then that order was reiterated
14 during a February 21st conference call with
15 the judge making the deadline pursuant to
16 order February 29th, I may need some leeway.
17 Just having to digest these as we go
18 through. I am looking at a document marked
19 number three. Can you tell me what that is,
20 Charlotte-three?

21 MR. GRAND: Objection to
22 foundation. But you can answer the
23 question if you understand.

24 A. Number three, this?

25 MR. GRAND: He is saying number

1 SOLNICKI

2 three. I think he is referring to the
3 number of this document.

4 A. This document --

5 MR. GRAND: He just asked if you
6 know what that document is.

7 A. I guess our purchases orders
8 from one of our retailers.

9 Q. Who prepared that document?

10 A. Our office.

11 Q. How do you know that?

12 A. Because I see here it says --

13 MR. BOSTANY: For the record,
14 the witness was pointing to the Bates
15 stamp number presumably affixed by her
16 attorney and said, because it says
17 Charlotte here.

18 A. So, then I don't know.

19 MR. GRAND: Off the record.

20 MR. BOSTANY: No, I don't want
21 to go off the record. This is a very
22 sensitive area.

23 MR. GRAND: It is? Identifying
24 the Bates stamp number.

25 MR. BOSTANY: I can do that on

1 SOLNICKI

2 the record.

3 Q. I think you just heard me say,
4 Miss Solnicki, what the Bates stamp number
5 was at the bottom. That was presumably
6 affixed by your attorney, these words
7 confidential.

8 A. I didn't know.

9 Q. I know you didn't know. That's
10 why I am repeating it. Because Mr. Grand
11 correctly points out it isn't something that
12 is worth repeating.

13 These words confidential
14 Charlotte and the number that comes to the
15 next of them, that comes to the right of
16 them?

17 A. Yes.

18 Q. Were not put on these documents
19 by you, were they?

20 A. I don't think so.

21 Q. Now, looking back at Charlotte
22 number three and, again, I am referring to
23 three because of this numerical number
24 that's been affixed to by someone else.

25 Do you have any way of telling

1 SOLNICKI

2 who prepared this document or what it is
3 aside from the Bates stamp number?

4 A. No, I don't know.

5 Q. What about for document number
6 four, do you have any way of telling what
7 that is?

8 A. It is a purchase order.

9 Q. Do you know who prepared it, or
10 anything else about it, or where it came
11 from?

12 MR. GRAND: Objection. You can
13 answer.

14 A. I guess showing that we
15 represent this.

16 Q. Now, let me just give you a
17 couple of guidelines. The testimony that
18 you are giving is under oath and it is
19 supposed to be based upon your own personal
20 knowledge. So --

21 A. But I work more on the creative
22 side.

23 Q. Wait, Miss Solnicki. I am not
24 at all correcting you or trying to criticize
25 you. This is not at all a criticism. These

1 SOLNICKI

2 are instructions. We are at the outset of
3 the deposition. I am trying to give you
4 guidelines because you have never had a
5 deposition of you before, have you?

6 A. No.

7 Q. So this is why it is more of an
8 outline of instructions rather than a
9 criticism at all. When you are asked a
10 question, you answer based upon your own
11 personal knowledge. If you're not sure, you
12 should say that. It is perfectly acceptable
13 to say you're not sure. If you have -- if
14 you want to guess, we can allow that, but we
15 want to know that you are guessing first.
16 So you can say, would you like me to guess,
17 or would you like me to tell you what I
18 think it is, although I really don't know
19 what it is. That kind of thing would
20 protect you, I think, from testifying to
21 something that you are really not sure about
22 by clarifying the basis of your knowledge.

23 Also, if the basis of your
24 knowledge comes from someone else, from a
25 conversation with someone else, you can say

1 SOLNICKI

2 that, also. You should say that. You
3 should say, oh, I know the answer to that
4 because I asked, because so and so told me
5 and then --

6 Have you reviewed any documents
7 before coming here today?

8 A. No, not really.

9 Q. Did you speak to anybody --

10 A. I saw them just briefly but I
11 didn't really review them.

12 Q. You saw a bunch of documents?

13 A. Yes, but I didn't look
14 specifically to.

15 Q. Where did they come from, who
16 showed you that?

17 A. They come from our office in
18 Buenos Aires, Fed Exed to the United States.
19 I didn't carry them myself.

20 Q. Do you know who prepared them in
21 Buenos Aires?

22 A. The office. I don't know
23 exactly which person.

24 Q. The Charlotte Solnicki office?

25 A. Um-hum.

1 SOLNICKI

2 MR. GRAND: Objection.

3 Q. Who is in charge of that office?

4 A. All of us are.

5 Q. When you say all of us, you mean
6 you, Jonathan, and Jessica?

7 A. Yes.

8 Q. Anyone else?

9 A. No.

10 Q. Do Jonathan and Jessica reside
11 in the United States?

12 MR. GRAND: Objection. You can
13 answer that question if you know.

14 A. No.

15 Q. Now, another thing I forgot to
16 tell you, I notice that a lot of your
17 answers you are nodding your head and
18 shaking your head and after a few moments go
19 by, when people are staring at you, you give
20 a verbal answer. It is necessary that you
21 give a verbal answer even though I perfectly
22 understand when you shake your head back and
23 forth it means no and when you shake your
24 head up and down it means yes. I understand
25 you perfectly. The problem is that because

1 SOLNICKI

2 Mr. Grand's partners, my client, Mr. Grand's
3 other clients, possibly the judge may want
4 to read what you have said here today and we
5 have a court reporter that is doing an
6 excellent job typing what you are saying.

7 The only way that can happen is if you --

8 A. Speak.

9 Q. Speak. Exactly.

10 A. Okay.

11 Q. I will show you a document that
12 has been marked as number five. Do you know
13 what this document is?

14 A. I guess it is an invoice.

15 Q. Is it from Charlotte Solnicki?

16 MR. GRAND: Objection.

17 A. I don't know.

18 Q. It says on the upper left-hand
19 corner the word Solnicki-Baregman, B-A-R-E
20 G-M-A-N, do you know who those people are?

21 A. Solnicki, it is my last name.
22 Baregman is a fantasy name.

23 Q. It's who?

24 A. Fantasy name, it doesn't exist.

25 Q. It is not a person?

1 SOLNICKI

2 A. No, it is not. It is something
3 we just created. Doesn't exist.

4 Q. Now, when you say the word
5 Solnicki at the top is your last name, does
6 that mean that name is referring to you, or
7 your sister, or your brother?

8 A. It is all of our last name, but
9 not referring to any of us. Charlotte -- I
10 mean, we decided to put our last name there,
11 but it is not us. I mean it is not
12 specifically me, or my sister, or my
13 brother. It is just our last name.

14 Q. Who decided to put these two
15 names on this piece of paper?

16 MR. GRAND: Objection. You
17 don't have to answer that question.
18 John, the questions about Charlotte
19 B's business are not within the scope
20 of today's deposition. As you know,
21 this was an issue that was raised
22 during the conference call with Judge
23 Freeman and she limited this
24 deposition to information about the
25 sales from Charlotte B, LLC to the

1 SOLNICKI

2 retailer defendants in this case, and
3 she limited the documents to be
4 produced pursuant to the subpoena to
5 those sales information which you are
6 reading from.

7 MR. BOSTANY: Why don't we do
8 this, since the judge's order is
9 clear, it is written. It says limited
10 to the claims or defenses in the case
11 and you produced a document, showing
12 the sale to Intermix, which is a
13 defendant in the case, and contains
14 information on it that I am asking the
15 witness about, why don't we do this.
16 Instead of arguing about this, we will
17 set this aside, since I absolutely
18 think this is a subject of which Judge
19 Freeman permitted us to answer and you
20 don't. So we will leave this
21 question, I am going to ask the court
22 reporter to mark it for a ruling,
23 because I imagine there will be
24 others. Rather than disturb Judge
25 Freeman over and over again, we can

1 SOLNICKI

2 call her maybe one or two times and
3 say look, judge, Mr. Grand and I have
4 a disagreement. This is the question
5 I would like to ask and Judge Freeman
6 will rule on all the questions that
7 you object to.

8 MR. GRAND: That's fair. I want
9 to be clear my objection is not to
10 questions regarding the sales
11 information and other information that
12 is on the document. My objection is
13 to your question about the corporate
14 information regarding Charlotte B, and
15 that's a question you asked.

16 MR. BOSTANY: Sir, the question
17 that you directed the witness not to
18 answer is not unclear. The record is
19 not unclear and it is not unclear that
20 Judge Freeman will rule on whether or
21 not the witness has to answer that
22 question.

23 Q. Moving on to document number
24 seven, let me ask you this:

25 You see at the top of this

1 SOLNICKI

2 document, it says vendor Charlotte Showroom
3 Seven, do you see that?

4 A. Yes.

5 Q. What does that mean?

6 MR. GRAND: Objection to
7 foundation. You haven't asked the
8 witness if she even knows what this
9 is, or if she has seen it before. So
10 I think you should establish that
11 before you ask questions about what is
12 on the document.

13 Do you want to repeat the
14 question?

15 MR. BOSTANY: Do you need the
16 question repeated?

17 MR. GRAND: I do.

18 A. Do I have to answer, it says
19 vendor Charlotte and Showroom Seven. It is
20 the showroom that represent us.

21 Q. When you say represent us, you
22 mean you, your brother, and your sister?

23 A. Yes, our brand.

24 Q. Are there any other showrooms
25 that represent the three of you?

1 SOLNICKI

2 A. No.

3 Q. Do you, your brother, and your
4 sister have a bank account?

5 MR. GRAND: Objection. Are you
6 asking if they personally have a bank
7 account, or asking if the company that
8 they operate under has a bank account,
9 because clearly her bank accounts are
10 not relevant to this case.

11 MR. BOSTANY: Well, I don't know
12 if she operates the business out of
13 her personal banking account.

14 MR. GRAND: So ask that question
15 first.

16 MR. BOSTANY: Let's see. She
17 seems like she is contemplating the
18 answer. She has made no indication
19 that she has any difficulty with the
20 question.

21 MR. GRAND: It is an
22 objectionable question. It is not a
23 matter of whether she has difficulty
24 about it. The Question is
25 objectionable. It is not a proper

1 SOLNICKI

2 question.

3 MR. BOSTANY: Are you directing
4 her not to answer?

5 MR. GRAND: I am directing her
6 not to answer because it is not
7 clear --

8 MR. BOSTANY: Okay, clear. Mark
9 that --

10 MR GRAND: I don't know whether
11 you are asking about the personal bank
12 account or corporate account.

13 MR. BOSTANY: I understand that
14 the attorney --

15 MR. GRAND: If you are asking
16 about -- excuse me, I am not finished.
17 If you are asking about her personal
18 bank account, it is objectionable.
19 I'm directing her not to answer. If
20 you are asking about a company that
21 she is a member of, Charlotte B, which
22 she is the deponent here, then I
23 can -- then you should clarify that
24 and I have no problem with the witness
25 answering that question. Actually, I

1 SOLNICKI

2 will take that back. I do have an
3 objection to that question. It is
4 entirely -- it is just beyond the
5 scope of today's deposition.

6 Q. The monies -- did you receive --
7 did you receive any monies --

8 MR. GRAND: Objection.

9 Q. -- for the sale of the goods to
10 Intermix?

11 MR. GRAND: Objection. Again,
12 it is not a clear question. When you
13 say you, are you referring to the
14 witness personally or are you
15 referring to an entity that is the
16 subject of this deposition?

17 John, I am asking you to clarify
18 the record. She's not going to answer
19 the question because I'm directing her
20 not to answer.

21 MR. BOSTANY: Mark that for a
22 ruling.

23 Q. Did Jonathan Solnicki receive
24 any monies from the sale of goods to
25 Intermix?

1 SOLNICKI

2 MR. GRAND: Objection.

3 MR. BOSTANY: Are you directing
4 her not to answer?

5 MR. GRAND: No, if you have any
6 idea if Jonathan Solnicki individually
7 received the money, you can answer.

8 Q. Okay. Just another instruction,
9 Miss Solnicki, because I notice that when
10 Mr. Grand objects, there is silence. I
11 think and then -- you know, you are required
12 to answer every question. If he directs you
13 not to answer, I suggest that you follow his
14 direction. But if he simply says objection,
15 you are required to answer the question.

16 A. Okay.

17 MR. BOSTANY: Please, read back
18 the question.

19 (Whereupon, the aforementioned
20 question was read back by the Court
21 Reporter.)

22 A. I don't know.

23 Q. Did Jessica Solnicki receive any
24 monies from the sale of goods to Intermix?

25 MR. GRAND: Objection.

1 SOLNICKI

2 A. I don't know.

3 Q. Who would know that? Well, let
4 me ask you this: Who would know if Jonathan
5 Solnicki received the money?

6 A. I would ask him.

7 MR. GRAND: Objection to the
8 form of the question. You can answer
9 if you know.

10 A. I would ask Jonathan Solnicki
11 would know.

12 Q. Would that answer be the same
13 with respect to sales of Charlotte B goods
14 to -- sorry, would that answer be the same
15 with respect to Charlotte -- the Charlotte
16 goods that are contained in these documents
17 that were sold to all of the retailers in
18 this case, Saks Fifth Avenue, Lisa Kline,
19 Wink, Lewis Tierney and Jonathan Singer?

20 MR. GRAND: Objection to the
21 question. I am not even sure what the
22 question was. But it is impossibly
23 vague.

24 Q. Do you understand the question,
25 Miss Solnicki?

1 SOLNICKI

2 MR. GRAND: And compound.

3 A. It is confusing.

4 MR. GRAND: Can I have that
5 question read back, please.

6 Q. I will repeat it. Would your
7 answer be the same, Miss Solnicki, that you
8 don't know if Jonathan Solnicki received
9 monies from the sales of goods, the goods
10 that are contained in these documents that
11 you produced?

12 A. I don't handle the business side
13 of it. So I don't know.

14 Q. Who does handle the business
15 side of it?

16 A. Jonathan.

17 Q. You don't know if Jonathan
18 Solnicki has a personal bank account, a
19 business account, or where the money goes
20 from the sale of these goods?

21 MR. GRAND: Objection.

22 Q. Is that your testimony?

23 MR. GRAND: I am directing you
24 not to answer that question. Move on,
25 John.

1 SOLNICKI

2 MR. BOSTANY: I would like to,
3 at this point, exclude the witness
4 because we are about to call the
5 judge, and I want to have a legal
6 issue decided. If you wait outside,
7 Miss Solnicki.

8 MR. GRAND: Before you call the
9 judge, I want to walk her outside.

10 MR. BOSTANY: No, you can't take
11 her outside.

12 MR. GRAND: Sure, there is no
13 question pending.

14 MR. BOSTANY: There is a
15 question pending. You directed the
16 witness not to answer, and I want her
17 to answer the question.

18 MR. GRAND: You want her to
19 leave the room.

20 MR. BOSTANY: Not you,
21 Mr. Grand.

22 MR. GRAND: I understand that.
23 I can escort my witness.

24 MR. BOSTANY: Wait here. Wait
25 here. Let's see what the judge says

1 SOLNICKI

2 and see if you can have a private
3 conversation.

4 MR. GRAND: I'm not having a
5 private conversation. I'm just going
6 to walk her out.

7 MR. BOSTANY: Let's see what the
8 judge says.

9 Miss Solnicki, please stay.

10 MR. GRAND: You just directed
11 her to leave the room.

12 MR. BOSTANY: Now I want her to
13 stay. I want her to stay. I want you
14 and the witness to stay.

15 Let the record reflect I asked
16 Mr. Grand to stay here while Miss
17 Solnicki left. Mr. Grand got up and
18 was walking out with the witness. So
19 now he wouldn't wait for the judge to
20 rule. I just called the court. I got
21 the judge's voice mail. There is a
22 pending question. There is a pending
23 question. The rules are that the
24 witness is not allowed to speak to her
25 attorney during a pending question,

1 SOLNICKI

2 and Judge Freeman may very well direct
3 this witness to answer the question
4 and if Mr. Grand will not let the
5 witness leave unless he takes her
6 outside and speaks to her also, then
7 we have no choice but to let the
8 witness stay. We have no choice.

9 I think the rules require you,
10 Mr. Grand, to allow the witness to
11 leave without you going with her. But
12 if you refuse to do that, let's wait
13 until we speak to the judge and see
14 what she decides.

15 MR. GRAND: Do you have another
16 question or you going to call the
17 judge back?

18 MR. BOSTANY: This is a critical
19 point because we need to get some
20 guidance to the judge as to whether,
21 in addition to violating her order to
22 produce the documents by
23 February 29th, you also violated her
24 order by producing a witness that
25 knows nothing, and you are also

1 SOLNICKI

2 violating the rules of civil procedure
3 by directing this witness not to
4 answer critical questions. So we need
5 to get rulings from the judge on a
6 whole host of things.

7 MR. GRAND: I am happy to call
8 the judge on all of these issues.
9 Because I don't believe that Miss
10 Solnicki's presence here as a member
11 of Charlotte B in any way violates any
12 order of a judge or any rules of civil
13 procedure. But we are sitting here
14 waiting, John. I am not sure. We can
15 go off the record.

16 MR. BOSTANY: Off the record.

17 (Whereupon, an off-the-record
18 discussion was held.)

19 MR. BOSTANY: Let the record
20 reflect that the witness is speaking
21 on the phone now, and I don't think
22 that is proper during a pending
23 question.

24 Miss Solnicki, why don't you
25 wait in here.

1 SOLNICKI

2 Q. Who were you speaking to on the
3 phone?

4 MR. GRAND: Objection. John,
5 you asked her to leave the room. She
6 can make a personal call if she is out
7 of the room.

8 MR. BOSTANY: I disagree. Stop,
9 relax, Mr. Grand. Relax. You don't
10 have to get animated and get upset
11 with me. My view, obviously, is
12 different than your view. That when
13 the witness has a pending question to
14 her, she not only shouldn't be
15 speaking to you but she shouldn't be
16 making phone calls, and I think I have
17 the right to know who she was speaking
18 to on the phone because you have
19 directed her not to answer. So let's
20 just add that. You don't have to get
21 angry. I won't ask her again. You
22 directed her not to answer. I am
23 civilized. I will just add that to
24 the list of issues that we will have
25 Judge Freeman rule upon. That's all.

1 SOLNICKI

2 We are waiting to speak to the judge.

3 Off the record.

4 (Whereupon, an off-the-record
5 discussion was held.)

6 Q. Miss Solnicki, where do you
7 currently reside?

8 A. Buenos Aires, Argentina.

9 Q. Do you have an apartment in New
10 York City?

11 A. No.

12 Q. When did you give up your
13 apartment in New York City?

14 MR. GRAND: Objection. Don't
15 answer it.

16 Q. You at one time had an apartment
17 in New York City; is that not true?

18 MR. GRAND: Objection. You
19 don't have to answer the question.

20 Q. Are you a United States citizen?

21 MR. GRAND: Objection. You
22 don't have to answer the question.

23 Q. Have you met anybody from any of
24 the defendants in this case, and I will show
25 you a caption?

1 SOLNICKI

2 A. I see companies there, company
3 names, and I see my brother's name.

4 Q. Okay. So aside from meeting
5 your brother, have you met any other
6 individuals from any of the other company
7 names that you see there?

8 A. But I see company names. I
9 don't see names.

10 MR. BOSTANY: Can you read back
11 the question to the witness.

12 Just pay attention to the
13 question.

14 (Whereupon, the aforementioned
15 question was read back by the Court
16 Reporter.)

17 A. I see company names. So they
18 all say Inc., Inc. The only one I don't see
19 with Inc. is Jonathan Solnicki.

20 Q. Right. So do you understand the
21 question? I'm asking you if you met any
22 persons that are connected with any of those
23 companies?

24 A. Yes.

25 Q. Who, what are their names?

1 SOLNICKI

2 A. Lisa Kline. Some of those
3 companies I know the people, but I don't
4 recall their exact names.

5 Q. Okay. So the only one you know
6 the name of is Lisa Kline?

7 A. Yes.

8 Q. Do you know the first names from
9 any --

10 MR. GRAND: Objection.

11 Q. -- from any of the people that
12 you met with?

13 MR. GRAND: Objection. You
14 don't have to answer that.

15 MR. BOSTANY: Add that to the
16 list of questions that we will ask
17 Judge Freeman for a ruling on.

18 Q. What are the names of the
19 companies, Miss Solnicki, that you met
20 people from, that you can't remember their
21 names?

22 MR. GRAND: Objection. You
23 don't have to answer that question.
24 It is beyond the scope of today's
25 deposition.

1 SOLNICKI

2 MR. BOSTANY: Mark that for a
3 ruling.

4 Again, we are talking about the
5 companies. Just for the record sake,
6 I know the witness and Mr. Grand
7 understand we are talking about the
8 companies that are in the caption that
9 the witness and Mr. Grand are both
10 looking at.

11 Q. Miss Solnicki, you said you were
12 involved in the design of the company -- I
13 am sorry, strike that.

14 You said you were involved in
15 the design end. What did you mean by that?

16 MR. GRAND: Objection. You
17 don't have to answer that question.

18 MR. BOSTANY: Mark that for a
19 ruling.

20 Okay, at this point, we can't go
21 forward without speaking to Judge
22 Freeman. So we will take a 30-minute
23 break because we have been waiting
24 around for a few minutes, and we will
25 resume.

1 SOLNICKI

2 (Whereupon, an off-the-record
3 discussion was held.)

4 MR. GRAND: Just to clarify
5 while we were off the record,
6 Mr. Bostany indicated that after a
7 ruling from the judge on the questions
8 that he has asked, he is not able to
9 go forward today and ask other
10 questions and that he has no more
11 questions today for the witness.

12 MR. BOSTANY: That's not true,
13 Mr. Grand --

14 MR. GRAND: Let me finish.

15 MR. BOSTANY: Wait. I have more
16 questions. The first part of your
17 statement is correct, that I can't ask
18 them in the current disposition, which
19 is you directing the witness not to
20 answer.

21 And, therefore, since we tried
22 to reach the judge a few times and all
23 I got was voice mail and you pointed
24 out that it is possible the judge
25 isn't in today, I think that we should

1 SOLNICKI

2 take 30 minutes off the record and
3 make additional efforts to reach the
4 judge, since there are pending
5 questions that I don't think it is
6 appropriate to have looming while the
7 witness leaves or speaks to you
8 privately, I think it deserves a
9 30-minute period off the record.
10 Without us using that 30 minutes, Mr.
11 Grand, to argue on and off the record
12 about whether or not we should be
13 waiting the 30 minutes.

14 MR. GRAND: What I was saying
15 before I was interrupted was that I
16 have not -- first of all, I have not
17 prevented Mr. Bostany from asking any
18 questions. He is free to ask any
19 questions that he wants. I have never
20 interrupted or stopped him from asking
21 any question. So for Mr. Bostany to
22 say that I prevented him from asking
23 questions by directing the witness not
24 to answer is just not true. I
25 directed the witness not to answer

1 SOLNICKI

2 where I believe, justifiably, that
3 Mr. Bostany's questions goes beyond
4 the scope of today's deposition.

5 Having said that, it is improper
6 to make the witness wait around for
7 30 minutes. If Mr. Bostany has no
8 more questions and if he doesn't reach
9 the judge.

10 So while we are happy to spend
11 whatever time it takes to try to reach
12 the judge, I don't think a 30-minute
13 break to do nothing, but to wait for a
14 call back makes much sense. So off
15 the record, we will try to resolve the
16 issue. But on the record, I just want
17 to clarify that Mr. Bostany said to me
18 that if we do not get in touch with
19 the judge, that he has no more
20 questions that he is going to ask of
21 this witness today.

22 MR. BOSTANY: Mr. Grand, what I
23 said is on the record. Okay. Don't
24 try to wiggle your way into relieving
25 yourself from complying with the

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court's order. Let's try to reach the judge. If we can't, I do have more questions, and I will ask them if and when we reach Judge Freeman to rule upon your belief that you can prevent most of the questions that I have asked so far from being answered. And we can do this all day, Mr. Grand. We can have the court reporter sit here for the next hour and you and I can argue back and forth. Judge Freeman is not going to read this. She'll rule when we reach her. So I will be happy to make Feldman court reporting rich and argue here with you for the next hour or two hours, whatever you want to do. But your statements are completely incorrect. I do have more questions for the witness. You've objected to almost every question I have asked. Most -- I would say most of the questions you have directed the witness not to answer, they have all been relating to the claims of the

1 SOLNICKI

2 case.

3 In fact, I have been talking
4 about the very parties that are in the
5 caption and purposely, purposely,
6 Mr. Grand, pointing to the caption
7 while I ask the question, so that you
8 would be fully educated that the
9 question is related to the case.

10 Because you were staring at the
11 caption of the case when I was talking
12 about the names of the parties, in the
13 caption of the case, when I was asking
14 the witness questions about them,
15 before you directed the witness not to
16 answer them.

17 So no, I don't think the judge
18 is going to agree with you that the
19 questions went beyond the claims and
20 defenses of the case. And I do think
21 that the judge is going to say that
22 the witness should have answered them,
23 and I do think the judge is going to
24 say that you should not have directed
25 the witness not to answer them. I

1 SOLNICKI

2 think all of that is going to happen.

3 Including, I think the judge is going

4 say that it was inappropriate for you

5 to attempt to have a private

6 conversation with Miss Solnicki while

7 questions were pending that you

8 directed her not answer. I also don't

9 think it is unreasonable to give Judge

10 Freeman 30 minutes. She is probably

11 on the bench. She was trying a case

12 this week. So I disagree with

13 everything you have said. And I don't

14 know why you want to have our

15 disagreements repeated on the record.

16 It is sufficient that the

17 disagreements are on the record once,

18 because they are recorded. But again,

19 I can't stop you from repeating your

20 viewpoint, if it serves your purpose.

21 But then when you repeat your

22 viewpoint, I have to repeat my

23 disagreement with your viewpoint.

24 MR. GRAND: Are you finished?

25 MR. BOSTANY: Yes, if you would

1 SOLNICKI

2 like to, again, repeat something, go
3 ahead and I will repeat. As I said,
4 this can go on. We have spent now
5 12 minutes out of the 30 minutes that
6 you adamantly objected to waiting for
7 Judge Freeman. You adamantly objected
8 to 30 minutes, and now we have spent
9 12 minutes of those 30 minutes on
10 nonsense arguing about something that
11 was already logged in the record. So
12 we spent 12 minutes of the 30 minutes
13 repeating ourselves.

14 MR. GRAND: John, I haven't said
15 a word. You have been talking the
16 whole time. Are you finished?

17 MR. BOSTANY: Go ahead.

18 MR. GRAND: I don't have
19 anything else to add.

20 MR. BOSTANY: All right.

21 (Whereupon, an off-the-record
22 discussion was held.)

23 Q. Miss Solnicki, I just left the
24 room along with Mr. Paltrowitz,
25 unfortunately, for a total of five minutes

1 SOLNICKI

2 and we came in and you were conferring with
3 your attorney; is that correct?

4 MR. GRAND: Objection. Don't
5 answer the question. John, do you
6 have a question pending? Do you have
7 a question to ask the witness? You
8 came back --

9 A. You said you would take a break.
10 That's what I understand, and a break has
11 nothing to do with this.

12 MR. BOSTANY: I maintain my view
13 that if we are going try to preserve
14 the integrity of this deposition and
15 wait now, I proposed to be an
16 additional 15 minutes because we have
17 waited 15 minutes for Judge Freeman to
18 rule, that I don't think it is
19 appropriate for Mr. Grand to be
20 conferring with his client. I
21 don't -- I think Mr. Grand, that your
22 attempt to obstruct this deposition by
23 repeatedly trying to have private
24 conversations with your client while
25 questions are pending is abominable'.

1 SOLNICKI

2 Your attempt to go outside with the
3 witness and after I told you four
4 times to please not do that, you were
5 continuing to do that.

6 THE WITNESS: He tried to escort
7 me.

8 MR. BOSTANY: Excuse me. And
9 now your actually conferring with the
10 witness is not right. Look, if you
11 have to do it, if we adjourn today and
12 you find yourself tonight and
13 tomorrow, while we are waiting for the
14 deposition to be rescheduled,
15 compelled to go over these questions
16 with your client I can't stop you from
17 doing that. I can't. I can only tell
18 you that it is not right. Let me show
19 you --

20 MR. GRAND: Excuse me.

21 THE WITNESS: You said we would
22 take a break.

23 MR. GRAND: John, for the
24 record, I disagree that there is a
25 pending question. There has been lots

1 SOLNICKI

2 of questions that have been asked,
3 lots of questions that have been
4 objected to, and lots of questions
5 that the witness has been directed not
6 to answer. And many questions that
7 the witness has answered. I disagree
8 with you entirely that there is a
9 pending question, and I disagree of
10 your view entirely that you will elect
11 to take a 30-minute break and during
12 that 30-minute break you shared the
13 view that there is a pending question,
14 so I am not entitled to talk my
15 witness about what has happened so far
16 or what is likely to happen when we
17 resume the deposition. I disagree
18 with that view entirely.

19 THE WITNESS: And you are also
20 talking with your partner.

21 MR. BOSTANY: I was talking to
22 Mr. Paltrowitz?

23 THE WITNESS: Yeah.

24 MR. BOSTANY: You are right.

25 MR. GRAND: John, do you have a

1 SOLNICKI

2 question?

3 MR. BOSTANY: Yes.

4 Q. Let me show you any -- do you
5 recognize any of these documents that you
6 produced to us, 1 through 339?

7 MR. GRAND: Objection to the
8 form of the question.

9 Q. Would you be able to tell me
10 about any of them?

11 MR. GRAND: Are you asking her
12 to identify them? What do you mean
13 tell you --- that is a very vague
14 question and I think it is
15 objectionable. You want to ask her if
16 she has seen them before, you want to
17 ask her if she knows what they are,
18 where they came from. Those are all
19 legitimate questions.

20 MR. BOSTANY: Good, I adopt all
21 of those questions with respect to
22 these papers. Please, Mr. Grand, you
23 don't have to repeat them. I adopted
24 them. She heard you. You don't have
25 to counsel the client about them. You

1 SOLNICKI

2 told me they were legitimate --

3 A. They have been prepared in the
4 office in Argentina in Buenos Aires.

5 Q. Which office?

6 A. In Buenos Aires, in Argentina,
7 our main office.

8 Q. Charlotte Solnicki's office?

9 A. Charlotte B office, yeah
10 Charlotte Solnicki's office.

11 Q. What do you mean Charlotte B,
12 yes, Charlotte Solnicki, what does that
13 mean?

14 A. We are, I am here representing
15 Charlotte B, correct?

16 Q. Well, I don't know. I don't
17 know.

18 A. Well, I do know.

19 Q. Well, whose office did these
20 documents come from? Are you saying they
21 must have come from Charlotte B's office
22 because you are here representing Charlotte
23 B; is that your answer?

24 MR. GRAND: Objection.

25 Q. Is there an office for Charlotte

1 SOLNICKI

2 B in Buenos Aires, Argentina, Miss Solnicki?

3 A. There is a Charlotte Solnicki
4 office in Buenos Aires in Argentina.

5 Q. Please read back -- wait.

6 Other than telling me that these
7 documents came from that office, is there
8 any other question -- can you answer any of
9 the other three questions that we have made
10 with regard to these documents?

11 A. Maybe you can repeat them again.

12 MR. BOSTANY: Sure. Please
13 repeat Mr. Grand's questions that he
14 said.

15 MR. GRAND: They weren't my
16 questions, just to be clear. They
17 were suggestions to Mr. Bostany
18 because his question was unclear. So
19 I gather from Mr. Bostany's adoption
20 of my suggestion, that Mr. Bostany
21 wants to ask the witness if she has
22 seen the documents before and if she
23 can identify them --

24 MR. BOSTANY: Stop. Mr. Grand,
25 stop. The witness -- the court

1 SOLNICKI

2 reporter will repeat, she'll read back
3 what the questions were. You don't
4 have to give your own now version of
5 what you think the questions are, and
6 educate the witness. You don't have
7 to do that. You don't have to coach
8 the witness. The questions are being
9 read back. Why are you speaking? Why
10 are you speaking? I understand you
11 objected to my saying they were your
12 questions. I take that back. They
13 are my questions. Let them be read
14 back. Stop trying to re-ask them. If
15 they are not your questions, why are
16 you asking them? They are my
17 questions, and I am asking the court
18 reporter to re-read them to the
19 witness as the witness requested.

20 That does not call for you to speak at
21 that point when the court reporter is
22 reading something back to the witness.

23 Please read back the questions.

24 (Whereupon, the aforementioned
25 question was read back by the Court.

1 SOLNICKI

2 Reporter.)

3 A. I have seem them before vaguely.

4 Like I said, I don't work in the business
5 side of it. So, I mean, I have never
6 studied them. I saw them vaguely, like I
7 have.

8 Q. Anything further in response to
9 those three questions, Miss Solnicki? Would
10 you like to have them read back then so that
11 your answer is complete?

12 A. Okay.

13 MR. BOSTANY: One more time,
14 please.

15 (Whereupon, the aforementioned
16 question was read back by the Court
17 Reporter.)

18 MR. GRAND: I will object as
19 asked and answered.

20 MR. BOSTANY: Okay. So there
21 were two questions. The court
22 reporter correctly pointed out that
23 Mr. Grand repeated the same one twice,
24 and I wasn't paying as careful
25 attention as I should have been.

1 SOLNICKI

2 A. Okay.

3 Q. So is there anything else you
4 want to add to the answer to those two
5 questions?

6 A. No.

7 Q. Can you identify any of these
8 documents?

9 MR. GRAND: Objection.

10 A. Identify? I don't know, like
11 there is a lot of documents.

12 Q. Right. Can you identify --

13 A. I said I have seen them vaguely,
14 identify as what?

15 Q. Can you tell me the name of
16 them, what they are called, any of them,
17 there are 339 documents, you want to take
18 your time and go through them and if you
19 find one that you can tell me what it is
20 called or testify as to any --

21 A. I can read what they are. I
22 don't recall what -- I have never studied
23 them so I don't specifically know what they
24 are about. If you would tell me to read
25 them, I can read them to you.

1 SOLNICKI

2 Q. Yes.

3 A. But I don't --

4 Q. Yes, read them and if you can
5 find one that you can explain to me, pull it
6 out and we will ask to you do that. If you
7 can't explain any of them based on your own
8 personal knowledge, then tell me that also?

9 MR. GRAND: Objection. You are
10 asking the witness to read 339 pages
11 of documents right now? Is that what
12 you are asking her to do?

13 MR. BOSTANY: It shouldn't take
14 long because about 200 of them are a
15 form that I showed her, Mr. Grand, and
16 she looked at it like it came from
17 Mars. So she can exclude probably
18 those, and the other 80 or 90 are
19 another form that she had no knowledge
20 whatsoever about, so it is possible,
21 very possible, she can quickly go
22 through this and tell me that, no, she
23 can't tell me anything about any of
24 them. But, it is also possible that
25 she'll find a couple real quick, that

1 SOLNICKI

2 she can tell me based on her own
3 personal knowledge. So I can,
4 Mr. Grand, pull each one out, call it
5 out by number and ask her that same
6 question. But I think it would be
7 quicker if she just went through it.
8 Yes, that is what I am asking her to
9 do. So please, do that.

10 MR. GRAND: I'm going to object
11 to that. Is a completely improper
12 question, and I object to
13 characterizations of the witness'
14 answers, from reference to Mars and
15 whatever else that you said was
16 completely inappropriate. It is not
17 the witness' job to go through the
18 entire list of documents.

19 MR. BOSTANY: Okay. You're not
20 letting her do that?

21 MR. GRAND: No. If you have a
22 question about a document that you
23 would like to ask her, feel free to
24 ask her that question. If you believe
25 that there are 80 documents that are

1 SOLNICKI

2 the same and she answers one way about
3 one of those documents and you feel
4 her answers will be the same for 80 of
5 those documents, I would suggest that
6 you don't need to go through that
7 exercise because she has given you an
8 answer that you are apparently not
9 satisfied with. But the answer is
10 what it is.

11 MR. BOSTANY: I don't know if I
12 am satisfied or not satisfied. Maybe
13 Judge Freeman won't be satisfied.
14 Maybe she'll tell you, what do you
15 mean. You produced a witness, you
16 produced documents, and the witness
17 that knew nothing about the documents.
18 Okay. So let's do this:

19 Q. How about documents 10 through
20 16, can you, based on your own personal
21 knowledge, Miss Solnicki, tell me what they
22 are, anything about them?

23 MR. GRAND: Objection to the
24 form of the question. But you can
25 answer. Tell him what you know about

1 SOLNICKI

2 them.

3 MR. BOSTANY: I object to
4 Mr. Grand asking his own question.

5 Q. Miss Solnicki, I want my
6 question answered, not Mr. Grand's question.

7 MR. BOSTANY: I object to
8 Mr. Grand continuing to ask a question
9 after I have asked a question. You
10 will have an opportunity, Mr. Grand,
11 to cross-examine your own witness, but
12 it is improper for you to ask the
13 witness a question that I have already
14 asked, but caging it slightly
15 differently because it might have a
16 different meaning.

17 Since it is my deposition, and I
18 am asking the questions, you can
19 object and direct the witness not to
20 answer, as you are very good at, but
21 you can't re-ask the question.

22 MR. GRAND: I didn't.

23 MR. BOSTANY: Yes, you did. The
24 record will reflect that you did.

25 MR. GRAND: It might have been

1 SOLNICKI

2 the first legitimate question you
3 asked today, and I allowed the witness
4 to answer.

5 MR. BOSTANY: No, you did more
6 than that. You asked yourself in a
7 different way.

8 A. There are documents that, from
9 what I read, is billed to ship to
10 Merchantwise.

11 Q. So you have no personal
12 knowledge out of any of these documents that
13 I just showed you?

14 A. Like I said, I don't work on the
15 business side of --

16 Q. I understand. I am doing this,
17 Miss Solnicki, not because I am trying to
18 give you a hard time, but because there are
19 a whole bunch of documents here. And I
20 wanted to -- you saw what I wanted to do.
21 What I wanted to do was handle things a
22 little differently, but Mr. Grand is not
23 letting me do that.

24 So I will now show you documents
25 16 through 35, and ask you if you can tell

1 SOLNICKI

2 me anything about these documents from your
3 own personal knowledge?

4 MR. BOSTANY: Let the record
5 reflect that Mr. Grand is looking
6 through the documents.

7 A. They are the same type of
8 documents.

9 Q. Okay. So your answer is the
10 same, you don't have any personal knowledge
11 with respect to any of them, ma'am?

12 I will show you documents 36 to
13 62. So the answer is the same with respect
14 to these?

15 A. Yes.

16 Q. I will show you documents 36
17 through 62. Is the answer the same with
18 respect to those, Miss Solnicki?

19 A. This is all business end of it,
20 like paperwork.

21 Q. So your answer is the same?

22 A. Yeah.

23 Q. 63 to 100, is your answer the
24 same with respect to these, Miss Solnicki?

25 MR. BOSTANY: Mr. Grand, I would

1 SOLNICKI

2 appreciate if the witness looked
3 through them, and you can look on
4 rather than the other way around.

5 MR. GRAND: I am glad to know
6 what you appreciate, but I am entitled
7 to look at the documents along with my
8 client.

9 MR. BOSTANY: Yes, you are but I
10 don't think it is appropriate for you
11 to be the one that is evaluating --

12 MR. GRAND: John, I am not
13 evaluating anything. I haven't said a
14 word and if you -- ordinarily would
15 have given me my own set of the
16 documents, I wouldn't have to share
17 the set with the witness. But you
18 only have one set for the witness.
19 This is the only set of documents I
20 can look at.

21 MR. BOSTANY: You gave me this
22 set yesterday. You were ordered to
23 give this set to me on February 29th.
24 Maybe if you had given it to me
25 February 29th, and said John, I gave

1 SOLNICKI

2 you a set, can you make an extra set
3 of what I gave you and I will pay you
4 \$0.10 a page, I would have been happy
5 to do that. I don't know why you
6 would want me to do the photocopying
7 of your documents.

8 MR. GRAND: John, these are
9 documents that you are asking the
10 witness about during a deposition.
11 The ordinary procedure is for you to
12 hand a copy of a document for the
13 witness and also have a copy of the
14 documents for counsel. If Mr. Carino
15 (phonetic) was in the room, you would
16 have a set for him too. You make
17 several sets of the documents that you
18 intend to use at deposition. You
19 elected not to do that. I understand
20 that the documents were produced two
21 days ago. I certainly can think you
22 can make a copy set of the documents
23 within two days, if you wanted to
24 share a set with me. But you didn't
25 do that. So the only set I can use,

1 SOLNICKI

2 to look at, to check to see what the
3 documents are that you are asking the
4 witness about are the ones that you
5 are handing to the witness, okay.

6 MR. BOSTANY: I got them when I
7 came back from court yesterday. They
8 were given to us late the night
9 before. Possibly Judge Freeman had in
10 mind when she ordered you to give them
11 to me on February 29th, possibly she
12 had in mind that she was going to give
13 us some time to do what you just
14 suggested. Possibly she didn't want
15 you to dump them on us the day before.
16 Possibly so you wouldn't be able to
17 object and reprimand me for not having
18 made you a copy in the few hours that
19 I had to do so.

20 MR. GRAND: John, do you have a
21 question?

22 MR. BOSTANY: And possibly also,
23 so that I would have had a chance to
24 review them, 339 documents that you
25 won't allow the witness to review, but

1 SOLNICKI

2 you didn't let me review them either.

3 Q. The documents 101 to 144, is
4 your answer the same; is your answer the
5 same with respect to the batch that we just
6 showed you?

7 A. Yes.

8 Q. Documents 101 to 144; is your
9 answer the same?

10 A. Yes.

11 Q. With respect to documents 145 to
12 244, is your answer the same with respect to
13 these, Miss Solnicki?

14 A. I am revising them for the first
15 time. Like I don't know. It is not my --

16 Q. Take your time.

17 A. They are all the same documents.

18 Q. Is your answer the same with
19 respect to those?

20 A. Can you repeat the question?

21 Q. Is your answer the same with
22 respect to those documents?

23 A. Yes, but I want to know, again,
24 the question.

25 MR. BOSTANY: Read back the

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question and answer.

(Whereupon, the aforementioned question and answer was read back by the Court Reporter.)

Q. Is your answer the same?

A. Yes.

Q. 245 through 339?

A. I know who these people are and I know we did business with them. But I don't know specifically these documents. I am now revising them for the first time.

Q. Reviewing?

A. Reviewing I mean.

MR. BOSTANY: Mark Plaintiff's Exhibit 1.

(Whereupon, the aforementioned one-page document was marked as Plaintiff's Exhibit 1 for identification as of this date by the Reporter.)

Q. Is your answer the same with respect to those?

A. Yes.

THE COURT REPORTER: Off the

1 SOLNICKI

2 record.

3 (Whereupon, an off-the-record
4 discussion was held.)

5 Q. Miss Solnicki, this is a
6 document that we have marked as Plaintiff's
7 Exhibit 1. Is that from the Charlotte
8 Solnicki website?

9 A. I am not sure.

10 Q. What is Showroom Seven, you see
11 it says Showroom Seven on there?

12 A. It is a showroom that represents
13 various designers.

14 Q. Okay. Does it have anything to
15 do with Charlotte Solnicki?

16 A. It used to represent us.

17 Q. It doesn't anymore?

18 MR. GRAND: Objection to the
19 question. I am directing the witness
20 not to answer.

21 Q. Do you know anybody from
22 Showroom Seven, any individual's names?

23 A. Yes.

24 Q. Who?

25 A. This person that's there.

1 SOLNICKI

2 Q. I can't see.

3 A. Portia Summerville.

4 Q. What about Michelle Liebman
5 (phonetic)?

6 A. She works in Los Angeles, not in
7 New York.

8 Q. She works for Showroom Seven in
9 Los Angeles; is that a yes or a no?

10 A. Yes, in LA, not New York.

11 Q. What about Karen Erickson?

12 A. Yes, I know her.

13 Q. Where does she work?

14 A. In Showroom Seven.

15 Q. How do you know her?

16 A. Because she is the designer of
17 Erickson Beamon, that's another brand or
18 company, and she is part of Showroom Seven,
19 also.

20 Q. Anybody else, do you know anyone
21 else's name from Showroom Seven?

22 A. Well, there are a lot of people
23 that work there.

24 Q. Can you give me five of the
25 names of the people that work there?

1 SOLNICKI

2 MR. GRAND: Objection.

3 Q. If you know.

4 A. I know first names. I don't
5 know most of the last names.

6 Q. Do you know any of the last
7 names?

8 A. I used to. Most of the people I
9 used to know very well left, so I don't
10 know.

11 Q. What were their names?

12 A. But they no longer work there.

13 Q. I understand.

14 A. Rachel Spring. I don't know the
15 last names of the other people. I know
16 first names.

17 Q. What are the first names that
18 you know?

19 A. Veronica, Beth, Jeremy, Jerome.

20 Q. What about John Mark Black?

21 A. He is part of Showroom Seven.

22 Q. They sell Charlotte Solnicki
23 merchandise?

24 A. Not now.

25 Q. They used to?

1 SOLNICKI

2 A. They used to.

3 MR. GRAND: Objection to the
4 form of the question.

5 Q. Why did they stop, do you know?

6 MR. GRAND: Objection. I direct
7 you not to answer the question.

8 Q. Do you know that we sued
9 Showroom Seven in this case, Miss Solnicki?

10 A. I have heard about it.

11 Q. From whom?

12 A. From my attorneys.

13 Q. Did you speak to either Karen
14 Erickson or John Mark Black about it?

15 MR. GRAND: Objection. I direct
16 you not to answer.

17 Q. Have you had any conversations
18 with anyone from Showroom Seven concerning
19 the accusation that Jonathan Solnicki or
20 Showroom Seven copied the -- I will withdraw
21 that.

22 Have you had any conversations,
23 Miss Solnicki, with anyone about the claims
24 in this case, that the defendants in this
25 case infringed on the Charlotte trademark?

1 SOLNICKI

2 MR. GRAND: Objection. I direct
3 the witness not to answer.

4 MR. BOSTANY: Mark that for a
5 ruling.

6 Q. Are you aware, Miss Solnicki,
7 that GMA accessories, the plaintiffs in this
8 case, has a registration to Charlotte in the
9 United States patent and trademark office?

10 MR. GRAND: Objection. I direct
11 the witness not to answer.

12 Q. Do you and your brother,
13 Jonathan, own Charlotte Solnicki?

14 MR. GRAND: Objection to the
15 form of the question. And I direct
16 the witness not to answer. For the
17 additional reason that the question
18 has been asked and answered.

19 MR. BOSTANY: Mark all these
20 directions not to answer for rulings.

21 Q. Do you and your brother Jonathan
22 have a partnership where you use the name
23 Charlotte Solnicki as the name of your
24 partnership?

25 A. Not that I know of.

1 SOLNICKI

2 Q. Who would know the answer to
3 that question?

4 A. Jonathan, probably.

5 Q. Did you all start to sell
6 clothing and decide to call it Charlotte
7 Solnicki brand?

8 MR. GRAND: Objection. I direct
9 the witness not to answer.

10 Q. Who decided to start calling
11 your clothing Charlotte Solnicki brand?

12 MR. GRAND: Objection. I direct
13 the witness not to answer. Let me
14 state for the record as I have said
15 before, Charlotte B is not a party to
16 this case. Charlotte B is a non-party
17 witness to this case. The only issues
18 that Charlotte B is called here to
19 speak upon are the -- the only issues
20 relevant to Charlotte B at this point
21 in the case are the sales to the
22 retailer defendants and the profits
23 earned by those retailer defendants.
24 So this entire line of questioning --

25 MR. BOSTANY: Let's exclude

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SOLNICKI

witness. Let's exclude the witness.

MR. GRAND: Can you let me
finish my observation --

MR. BOSTANY: No, I think you
should exclude the witness while are
making your argument. Because you are
obviously coaching the witness because
you have already stated your theories
over and over again on the record.

So the only possible purpose,
sir, for you to repeat your theories
would be to coach the witness. If you
want to do that, let's exclude the
witness. Let's exclude the witness.
If your purpose is something
legitimate and not to coach the
witness, then you should have no
objection to the witness waiting
outside while you effectuate your
purpose.

MR. GRAND: That's fine. You
can step out of the room.

(Whereupon, the witness has left
the room.)

1 SOLNICKI

2 MR. BOSTANY: Now, again,
3 Mr. Grand, I think that your theories
4 have been repeated over and over.
5 But, again, if you are interested in
6 adding to the Feldman company's
7 revenue for the year, go right ahead
8 and repeat your theory.

9 MR. GRAND: I am not interesting
10 in adding to your revenues but I wish
11 you well in having a successful year.

12 My point is that this entire
13 line of questioning is improper and
14 well beyond the scope of today's
15 deposition. My purpose was not to
16 coach the witness in any way. My
17 purpose was to advise you, that that's
18 what our position is today. That's
19 what we believe the judge ruled, and
20 so to guide you in asking your
21 questions of this witness accordingly,
22 so that we can try not to spend more
23 time here today, on issues that are
24 irrelevant and improper, than
25 necessary. That was my purpose.

1 SOLNICKI

2 MR. BOSTANY: A little tip, if
3 you want to save time, say objection,
4 beyond the scope. No need for a
5 speech. No need to have this
6 interruption. I will call the witness
7 back in.

8 Another advantage -- Miss
9 Solnicki is missing. Another
10 advantage for you to not interrupt the
11 deposition like this would be so that
12 we wouldn't lose the witness like we
13 just did.

14 MR. GRAND: I didn't ask the
15 witness to step out of the room, you
16 did.

17 MR. BOSTANY: Because you didn't
18 simply object and say beyond the
19 scope. You wanted to make a speech
20 and in the future, I will also ask the
21 witness, with your permission, to
22 please leave when you go into your
23 speeches, because it has been my
24 experience, having practiced in this
25 area, done depositions for almost

1 SOLNICKI

2 20 years, when lawyers make speeches
3 in front of clients that contain
4 information that is already in the
5 record, they do so to coach the
6 witness. That's just been my
7 experience. I am not saying that you
8 were 100 percent doing that. But it
9 is a high percentage.

10 At this point we are going to
11 adjourn until we have a chance to get
12 rulings on our questions. Since we
13 don't know where the witness went at
14 this point, and it is clear we are at
15 a point where our disagreement is not
16 allowing -- continuing to not allow
17 numerous questions to be asked and
18 answered.

19 (Whereupon, an off-the-record
20 discussion was held.)

21 Q. Miss Solnicki, when was the last
22 time that you spoke to either Karen Erickson
23 or Portia Summerville?

24 MR. GRAND: Objection. I direct
25 the witness not to answer. It is

1 SOLNICKI

2 beyond the scope.

3 MR. BOSTANY: What we will do
4 is, it is 12:00. We can take a lunch
5 break and come back at 1:00 and maybe
6 we will have reached Judge Freeman by
7 then or we can just -- how does that
8 sound?

9 MR. GRAND: It doesn't sound
10 like a good idea at all. We have been
11 calling the judge -- why don't we go
12 off the record?

13 MR. BOSTANY: No, I want this on
14 the record.

15 MR. GRAND: Fine, we can keep it
16 on the record. We tried the judge
17 since 10:00 this morning and have not
18 been able to reach her. I don't think
19 it is prudent or reasonable to take a
20 lunch break and wait for a ruling from
21 the judge. We will be happy to abide
22 by whatever ruling the judge makes.
23 If Mr. Bostany wants to make an
24 application to have the witness be
25 compelled to answer the questions she

1 SOLNICKI

2 has been directed not to answer. But
3 there is no reason to hang around and
4 wait for an hour for an answer that
5 might not come today.

6 So my suggestion is that if
7 Mr. Bostany has no further questions
8 and wants to wait for a ruling from
9 the court, that we adjourn for the day
10 and Mr. Bostany is then free to make
11 an application for the court for the
12 answers that he feels he is entitled
13 to answers.

14 MR. BOSTANY: Well, I can't
15 force you to come back at 1:00. I
16 will either see you or I won't.

17 Nice meeting you.

18 (Whereupon, an off-the-record
19 discussion was held.)

20 MR. BOSTANY: Mr. Grand just
21 indicated that we shouldn't bother
22 waiting around for him because he is
23 definitely not going to be back at
24 1:00.

25 MR. GRAND: That's what not what

1 SOLNICKI

2 I said. I didn't tell him not to
3 bother. What I had said was, is that
4 we have tried to reach the judge for
5 hours now. It is apparent that the
6 judge is not in chambers and cannot
7 attend to our matters at the moment.
8 And Mr. Bostany has indicated he has
9 no further questions.

10 So because he has no further
11 questions of the witness and is merely
12 waiting for rulings from the judge on
13 the questions he asked, and since the
14 judge is not there, it makes no sense
15 to keep this witness here any longer
16 today to wait for these rulings.

17 So I do not think that it makes
18 sense to continue the deposition and
19 take a lunch break and come back for
20 an answer that we don't have.

21 MR. BOSTANY: I am sorry for the
22 confusion. I have further questions,
23 and I would like to ask them at 1:00.
24 Again, when I said I can't force you
25 to stay, what I meant was, is that the

1 SOLNICKI

2 court reporter and I are going to be
3 here at 1:00. I can't physically
4 force you to be here at 1:00. All I
5 can say is that at 1:00, we are going
6 to note your non-appearance.

7 MR. GRAND: John, you just told
8 me you had no further questions. Now
9 you are telling me you do have more
10 questions. Please tell me what -- are
11 you going to be asking questions at
12 1:00?

13 MR. BOSTANY: Everything I said
14 was on the record.

15 MR. GRAND: And you contradicted
16 yourself. So I am asking you to
17 clarify the record.

18 MR. BOSTANY: Let's each order
19 the transcript.

20 MR. GRAND: I don't want to
21 order the transcript. I want to know
22 if you have questions of the witness
23 while she is here. If you have
24 questions, we don't need to wait an
25 hour to take a lunch break. We are

1 SOLNICKI

2 fine. We'd rather plow right through
3 and get done with the testimony and
4 cover all the areas that you have and
5 be done for the day.

6 MR. BOSTANY: I think what I
7 said was clear and it wasn't what you
8 say I said. Thank you.

9 (Whereupon, a recess was taken.)

10 MR. BOSTANY: The time is 1:00.
11 Mr. Paltrowitz and I are here.
12 Mr. Grand and the witness are not. So
13 we have no choice but to adjourn.

14 (Whereupon, at 1:00 p.m. the
15 Examination of this Witness was
16 adjourned.)

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19 _____
20 MELINA SOLNICKI

21 Subscribed and sworn to before me
22 this _____ day of _____, 2008.

23 _____
24 NOTARY PUBLIC
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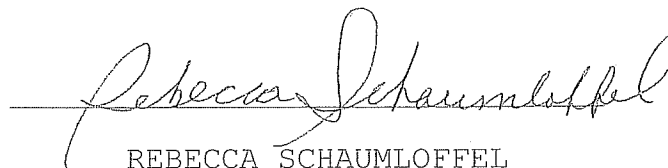
STATE OF NEW YORK)
 : SS.:
COUNTY OF NASSAU)

I, REBECCA SCHAUMLOFFEL, a Notary
Public for and within the State of New York,
do hereby certify:

That the witness whose examination
is hereinbefore set forth was duly sworn and
that such examination is a true record of the
testimony given by that witness.

I further certify that I am not
related to any of the parties to this action
by blood or by marriage and that I am in no
way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 11th day of March, 2008.


REBECCA SCHAUMLOFFEL